

or other evidence sufficient to establish that the property has actually been exported. The person making the payment subject to tax shall furnish the appropriate documentary evidence to the carrier, or a statement that he holds such documentary evidence. In the latter case, the statement must: (i) Certify that the property covered by the Export Exemption Certificate, Form 1363 was exported; (ii) identify the evidence of exportation; (iii) specify the foreign destination or the possession of the United States to which the property was shipped; and (iv) show the place where such evidence will be available for inspection by internal revenue officers. Any documentary evidence or statement, as the case may be, shall be retained by the carrier and the person making the payment subject to tax for a period of three years from the last day of the month during which the shipment was made from the point of origin. If the person making the payment subject to tax is not the actual exporter and is unable to obtain documentary evidence of exportation, such person shall obtain from the person having custody of the documentary evidence a statement containing the same facts as listed above for a statement furnished to the carrier by the person liable for the tax. The person making the payment subject to tax shall furnish the original of such statement to the carrier and shall retain a copy in his records. The statement shall be retained for the same three year period as the evidence of exportation is to be retained.

(e) *Definitions*—(1) *Property*. The term “property” does not include excess baggage accompanying a passenger traveling on an aircraft operated on an established line.

(2) *Transportation*. The term “transportation” includes layover or waiting time and movement of the aircraft in deadhead service.

(3) *Taxable transportation*. The term “taxable transportation” is defined in section 4272.

(f) *Collection of tax*. The tax imposed by section 4271 shall be paid by the person making the payment subject to tax and shall be collected by the person engaged in the business of transporting property by air for hire who receives

such payment, except that in the case of amounts subject to tax which are paid by the U.S. Postal Service, the tax shall not be collected by the person engaged in the business of transporting property by air for hire who receives such payment, but instead shall be paid directly by such Service as if it were a collecting agent.

[T.D. 7054, 35 FR 12117, July 29, 1970, as amended by T.D. 7190, 37 FR 12794, June 29, 1972; T.D. 7316, 39 FR 21126, June 19, 1974; T.D. 7517, 42 FR 58935, Nov. 14, 1977; T.D. 7953, Redesignated and amended by T.D. 8328, 56 FR 190, Jan 3, 1991; T.D. 8442, 57 FR 48186, Oct. 22, 1992]

Subpart F—Collection of Tax By Persons Receiving Payment

§ 49.4291-1 Persons receiving payment must collect tax.

Except as otherwise provided in section 4263(a), every person receiving any payment for facilities or services on which a tax is imposed upon the payor thereof under chapter 33 shall collect the amount of the tax from the person making that payment. Under section 7501, all taxes collected in this manner are held by the collecting agent in trust for the United States. If the person from whom the tax is required to be collected refuses to pay it or if for any reason it is impossible for the collecting agent to collect the tax from that person, the collecting agent is required to report to the Commissioner the name and address of that person, the nature of the facility provided or service rendered, the amount paid therefore, and the date on which paid. Applicable October 1, 2004, this report must be made on or before the report due date. Upon receipt of this report the Commissioner will proceed against the person to whom the facilities were provided or the services rendered to assert the amount of tax due, affording that person the same conference, protest, and appellate rights as are available to other excise taxpayers. In addition, when a field or office audit of a collecting agent's records, or of a taxpayer's records, discloses that the collecting agent failed during prior reporting periods to collect taxes due, the Commissioner may assert those taxes directly against the person to

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whom the facilities were provided or the services rendered, whether or not the collecting agent had attempted collection or the person liable for the tax had refused payment thereof. For purposes of this section, the report due date is—

(a) In the case of a person using the alternative method of making deposits described in § 40.6302(c)-3 of this chapter, the due date of the return on which the item of adjustment relating to the

uncollected tax would be reflected if items of adjustment were determined without regard to the limitation in § 40.6302(c)-3 of this chapter; and

(b) In any other case, the due date of the return on which the tax would have been reported but for the refusal to pay or inability to collect.

[T.D. 8685, 61 FR 58007, Nov. 12, 1996, as amended by T.D. 9051, 68 FR 15942, Apr. 2, 2003; T.D. 9149, 69 FR 48394, Aug. 10, 2004; T.D. 9221, 70 FR 49870, Aug. 25, 2005]